

## **SUMMARY - CODE OF ETHICS, GIFTS AND FINANCIAL STATEMENTS<sup>1</sup>**

### **SOME DEFINITIONS**

**Constitutional Officials:** The secretary of state, the state treasurer, their deputies, assistants, and all employees of their departments.

**Elected Officials:** The governor, members of the executive council, members of the general court, county commissioners, county sheriffs, county treasurers, county attorneys, registers of deeds, and registers of probate.

**Family Members:** Any person related to and living in the same domicile as the elected official, public official, public employee, constitutional official, or legislative employee, who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.

**Honorarium:** A payment in any form to an elected official, public official, public employee, constitutional official, or legislative employee for services for which the person is not being compensated by the state, a county, the United States of America, or any other employer or client, where the service provided is related to or associated with office or employment held with government. Honorarium includes, but is not limited to, a payment as described above, for making a speech, preparing a written document, or serving as an advisor or consultant.

**Expense Reimbursement:** Payment in any form as prepayment, underwriting, or reimbursement of the reasonable expenses of attendance, registration, travel, meals, or lodging related to a bona fide informational or educational conference, seminar, or meeting, when the source of such reimbursement is other than the state, a county, or the United States of America.

**Legislative Employees:** Any person employed by the legislative branch.

**Public Employees:** Any person, including but not limited to a classified or non-classified employee or volunteer, who conducts state business on behalf of the governor, any executive branch official, agency, or the general court.

**Public Officials:** A commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

**Executive Branch Officials** is defined to incorporate constitutional officials, elected officials who hold executive branch office, public employees and public officials.

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<sup>1</sup> This summary of Senate Bill 206 is intended to describe changes in the ethics laws as they relate to agency heads and executive branch officials. Senate Bill 206 requires that elected state and county officials (including members of the General Court) must still file by June 15, 2006 the statement required under the former RSA 15-B of any gift or honorarium received by the official during the preceding 12 months ending June 1, 2006, when the receipt of such gift or honorarium is attributable to the office held by the official.

## GIFTS

### Summary of New Rule:

Accepting gifts is prohibited. "Gift" is broadly defined to mean money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money. The statute lists 13 exceptions to the definition of a gift. If it is not listed as an exception, then it is a gift, subject to the rule. Honorariums or expense reimbursements (as defined in statute) can be accepted, but must be reported to Secretary of State.

### Rules:

- I. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any elected official, public official, public employee, constitutional official, or legislative employee.
- II. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any family member, as defined in this chapter, of any elected official, public official, public employee, constitutional official, or legislative employee, with a purpose of influencing or affecting the official conduct of such official or employee.
- III. No elected official, public official, public employee, constitutional official, or legislative employee shall knowingly accept, directly or indirectly, any gift, as defined in this chapter.

### To Whom Does the Rule Apply?

Public Employees, Public Officials, Legislative Employees, Constitutional Officials, Elected Officials, and Family Members.

### Gift Defined

1. Money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money.
2. Any other tangible thing, intangible thing, service, or the use thereof having more than insignificant economic value.

### The Thirteen Exceptions

1. Items with a value of less than \$10 are presumed to be of insignificant economic value.
2. A political contribution as defined in RSA 664.
3. A commercially reasonable loan, made in the ordinary course of business.
4. Repayment to an elected official, public official, public employee, constitutional official, or legislative employee of a bona fide loan made by such a person.
5. A ceremonial object or award, the value of which is primarily personal to the recipient and which has inconsequential economic value. A ceremonial object or award with a value of \$50 or less is presumed to be of inconsequential economic value.
6. Objects which primarily serve an informational purpose provided in the ordinary course of business, such as reports, books, maps, or charts.

7. Money in any form, an object, or an intangible thing of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or intangible thing of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.
8. Wages, salary, benefits, mileage or payment for expenses received by the person in his or her regular course of employment or business which is unrelated to the government position held.
9. Wages, salary, benefits, mileage, or payment for expenses paid to the person by the state, a county, or the United States of America related to performance of official duties.
10. Tickets or free admission to a charitable, ceremonial, or political event provided that:
  - a. The proceeds of the event are subject to the political contributions and expenditure reporting law, RSA 664; or
  - b. The event is sponsored by a charitable organization that is registered with the division of charitable trusts, department of justice, or which is a charitable organization pursuant to section 501(c)(3) of the federal tax code; or
  - c. The event is published as an event open for attendance by any member of the general court in the calendar of the senate or the house.
11. Meals, beverages, lodging, or transportation associated with attendance at:
  - a. Any event for which the primary significance is ceremonial or celebratory, provided the event is public or, if by invitation only, is planned to have an attendance greater than 50 people; or
  - b. Any event where the person is attending in an official capacity representing the state and/or the senate, house, or the agency of which the person is a member.
12. Expense reimbursement or an honorarium.<sup>2</sup> Expense Reimbursements and Honorariums must be reported to the Secretary of State.<sup>3</sup>
13. Meals and beverages consumed in the course of official business.

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<sup>2</sup> No public official or public employee shall accept an honorarium from a person who is subject to or likely to become subject to or interested in any matter or action pending before, or contemplated by, the public official, public employee, or the governmental body with which that person is affiliated.

<sup>3</sup> Expense Reimbursements from the State, county or United States do not need to be reported to the Secretary of State. Expense Reimbursements made by an organization to which the state or county pays dues, when the prepayment, underwriting or reimbursement is provided because of the dues paid also do not need to be reported.

## **CONFLICT OF INTEREST**

### **Rule:**

Executive branch officials shall avoid conflicts of interest. Executive branch officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

### **To Whom Does the Rule Apply?**

Executive Branch Officials.

## **MISUSE OF POSITION**

### **Rule:**

No executive branch official shall:

- I. Disclose or use confidential or privileged information acquired in the performance of his or her duties for the state for personal benefit or for financial gain.
- II. Use their positions his or her position with the state to secure privileges or advantages for himself or herself, which are not generally available to governmental employees, or to secure governmental privileges or advantages for others.

### **To Whom Does the Rule Apply?**

Executive Branch Officials.

## **FINANCIAL DISCLOSURE REQUIREMENTS**

### **Summary of Rule:**

The new statute on financial disclosure is designed to consolidate existing financial disclosure statutes into one section. In addition, the new financial disclosure requirements cover additional positions.

### **Rule #1:**

All persons subject to this requirement must file a financial disclosure with the Secretary of State. Financial disclosures must be filed annually, no later than the third Friday in January. All persons subject to this chapter, except those who are elected, shall file a statement of financial interests within 14 days of assuming the office, position, or appointment that makes the person subject to this chapter, unless the person has previously filed a statement during the calendar year.

### **To Whom Does Rule #1 Apply?**

- I. All candidates who file for state or county office.
- II. All persons filing an acceptance of nomination form for state or county office.
- III. Every person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.
- IV. All agency heads.
- V. Any public official designated, due to the responsibilities of the position, by the agency head.
- VI. The secretary of state and the treasurer, and any of their subordinates designated, due to the responsibilities of the position, by the secretary of state or treasurer.
- VII. All persons elected to state or county office, and all persons appointed to such elective office to fill a vacancy; and
- VIII. Any person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.

### **Rule #2:**

Agency heads, the Governor, Secretary of State and Treasurer must submit to the Secretary of State an organizational chart identifying the names and titles of all persons in his or her department that are required to file a statement of financial interests.

### **When Must The Organization Chart Be Submitted?**

Subject to any contrary interpretation by the Executive Branch Ethics Committee established by SB 206, it is reasonable to believe the deadline is the same time the financial disclosure themselves are due. Thus, the initial organization chart is due the third Friday in January, 2007. If someone assumes an office, position or appointment that makes a person subject to the financial disclosure requirement before January 2007, then the first organization chart must be submitted on or before the first day of such person's employment in that position. The organization chart must be updated upon any change to the chart.